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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,107	09/24/2003	Norman Goris	N. GORIS 6-6	7170

47396 7590 06/05/2007  
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EXAMINER
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JACKSON, BLANE J

ART UNIT	PAPER NUMBER
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2618

NOTIFICATION DATE	DELIVERY MODE
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06/05/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@hittgaines.com

## Office Action Summary

Application No.

10/670,107

Applicant(s)

GORIS ET AL.

Examiner

Blane J. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The 35 USC 112 rejection of claim 7 is resolved by the amendment filed 12 April 2007.

### ***Drawings***

The changes to figure 2 filed 12 April 2007 are accepted by the Examiner.

### ***Response to Arguments***

Applicant's arguments filed 12 April 2007 have been fully considered but they are not persuasive. The applicant primarily argues prior art Heinonen does not disclose a portion of a vital sign measuring system includes a series of computer program instructions adapted to be executed on a processor of a mobile telephone where the measuring unit may be detached from and perform measurement independent of the mobile phone. Where it is agreed the measuring unit may act independent of the mobile phone, it is dependent on the keypad and display of the mobile phone for interfacing with the user as defined in the claims. Heinonen clearly teaches the measuring unit with a battery *is placed in the battery space* (not separate) with connection to a communication bus of the phone. Also, the phone software is subjected to changes so that the display and keyboard is used to monitor and control the measured data detected by the measuring unit, column 4, line 54 to column 5, line 3. It is understood

the "communication bus" is the processor bus of the phone, used to pass data between the measuring unit, display, keypad, software and memory. Heinonen further teaches an electronic section of the measuring unit may additionally store a special program related to the act of measurement, where this program, in addition to the phone processor/ software, is used to guide the user in carrying out the measurement such as advice on the display in coordination with the necessary keystrokes, column 5, lines 54-65. This opinion is repeated in the amended claims to follow.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-12, 15-17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Heinonen et al. (US 5,772,586).

As to claims 1 and 8, Heinonen teaches an apparatus and method of employing a mobile telephone to measure a vital sign comprising:

A vital sign measuring system having a vital sign sensor integrated within a chassis of said mobile telephone and configured to determine vital sign information of a user wherein at least a portion of said vital sign measuring system includes a series of computer program instruction adapted to be executed on a processor of said mobile telephone (figures 1-3, column 3, lines 18-64, measuring unit (11) placed *in the battery*

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*space, not separately attached*, of a mobile phone (1), the measuring unit with means for measuring blood glucose level, blood pressure, fever or pulse; column 4, line 54 to column 5, line 13, the measuring unit is connected to a communication bus of the phone's processor, *the phone software changed* such that the display and the keyboard of the phone may be used in the act of measurement),

A keypad coupled to the vital sign measuring system configured to allow a user to control the vital sign measuring system to determine said vital sign information (figure 2, column 5, lines 54-65, keypad (13) is used by user to browse previous measurement results and inherently used in the act of measurement in conjunction with the display),

A display wherein said vital sign sensor is configured to send said vital sign information to said display, said display configured to receive said vital sign information from said vital sign sensor and provide said vital sign information to said user (figure 2, column 5, lines 54 to 65, the patient can browse previous measurement results, monitor their development and read procedural advice during the act of measurement via the display (12)).

As to claims 2 and 9 with respect to claims 1 and 8, Heinonen teaches the mobile telephone wherein said vital sign sensor is a body temperature sensor (column 3, lines 56-64, means for measuring the blood glucose level, measuring blood pressure, pulse or fever (body temperature)).

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As to claims 3 and 10 with respect to claims 1 and 8, Heinonen teaches the mobile telephone wherein said vital sign sensor is a blood pressure sensor (column 3, lines 56-64, means for measuring the blood glucose level, measuring blood pressure, pulse or fever (body temperature)).

As to claims 4 and 11 with respect to claims 1 and 8, Heinonen teaches the mobile telephone wherein said vital sign sensor is a pulse detector (column 3, lines 56-64, means for measuring the blood glucose level, measuring blood pressure, pulse or fever (body temperature)).

As to claim 5, Heinonen teaches the mobile telephone as recited in claim 1 wherein the vital sign sensor includes an analog to digital interface coupled to said display and configured to convert said vital sign information from analog data to digital data and directly send said digital data to said display to provide said vital sign information as digital data (figure 3, column 5, lines 21-65, electronic section (20) comprises an A/D converter and a memory where the vital sign information or levels are digitized and stored, the same information applied to the special program to guide the patient in the act of measurement with display).

As to claim 12, Heinonen teaches the method as recited in claim 8 wherein said vital sign sensor is located on an opposite side of said mobile telephone as said display to simultaneously employ said vital sign sensor and provide said vital sign information to said user through said display (figure 2, column 4, line 54 to column 5, line 39,

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measuring unit (11) is placed in the battery space of the mobile phone, opposite side of the mobile phone to the display and column 5, lines 54-65; display to provide measurement advice, results, warnings and history).

As to claim 15, Heinonen teaches a mobile telephone comprising:

A vital sign measurement system including a body temperature sensor, a blood pressure sensor, a pulse detector and control circuitry coupled to said body temperature sensor, said blood pressure sensor and said pulse detector, said vital sign measurement system configured to determine vital sign information of a user (column 3, lines 56-64, a mobile telephone comprising a vital sign measuring unit (11) for, by example, measuring blood glucose level but may also comprise means to measure blood pressure, fever (body temperature) or pulse),

A processor unit shared by said mobile telephone and said vital sign measurement, configured to control said body temperature sensor, said blood pressure sensor and said pulse detector via said control circuitry when said vital sign measurement system is activated (figure 2, column 4, line 54 to column 5, line 65, the measuring unit is coupled to the phone communication bus with changes to the phone's software such that the measuring unit is interfaced to the user via the phone's display and keyboard), and

A display configured to receive said vital sign information from said vital sign measurement system and provide said vital sign information to said user (figure 2, column 5, lines 54 to 65, the patient can browse previous measurement results, monitor

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their development and read procedural advice during the act of measurement via the display (12)).

As to claim 16, Heinonen teaches the mobile telephone as recited in claim 15 wherein said system is integral with a chassis of said mobile telephone (figures 1 and 3, column 3, lines 18-27, measuring device consists of a mobile phone and a combination of a *measuring unit and a battery placed in the battery space* of the mobile phone).

As to claim 17 with respect to claim 15, Heinonen teaches the mobile telephone wherein said vital sign measurement system includes a series of computer program instructions adapted to be executed on said processor to control said body temperature sensor, said blood pressure sensor and said pulse detector via said control circuitry (figure 3, column 4, line 63 to column 5, line 65, the phone software is changed to share the phone processor, display, keyboard and transmission circuits with the measuring unit).

As to claim 19, Heinonen teaches the mobile telephone as recited in claim 15 wherein said vital sign measurement system is activated by a keypad of said mobile telephone (figure 2, column 4, line 63 to column 5, line 3 and column 5, lines 54-65, keyboard (13) and display (12) are used in the act of measurement).



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As to claim 20, Heinonen teaches the mobile telephone as recited in claim 15 wherein said vital sign information is provided to said user via an analog signal indicated on said display (column 5, lines 54-65, user can browse previous or current measurement results on the display).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 13, 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinonen et al. (US 5,772,586) with a view to Puthuff (US 6,112,103).

As to claim 6, with respect to claim 1 and claims 13 and 14 with respect to claim 8 and claim 18 with respect to claim 15, Heinonen teaches a conventional GSM mobile telephone equipped with a microphone and loudspeaker, column 4, lines 63-67, but does not teach the loudspeaker and a microphone are coupled to said vital sign measuring system and configured to provide the vital sign information to the user and configured to allow the user to control the vital sign measuring system respectively.

Puthuff teaches a mobile telephone (figure 1, telephone (312)) with an attached personal communication node (PCN) (100) for the user to answer calls, initiate calls, receive or send messages by issuing voice commands, column 3, lines 8-23. Puthuff

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also teaches the PCN in combination with the cellular telephone includes software which interprets voice commands from the user such as to direct the cellular telephone to perform a certain function or direct a particular control function on a particular remote device, column 6, lines 10-46.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the vital health monitoring telephone of Heinonen with the voice command ability of Puthuff for the hands free convenience of controlling the system by the patient.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blane J. Jackson whose telephone number is (571) 272-7890. The examiner can normally be reached on Monday through Thursday, 7:30 AM-6:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BJJ

  
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